

AMENDED IN ASSEMBLY JUNE 17, 2010
AMENDED IN ASSEMBLY SEPTEMBER 4, 2009
AMENDED IN ASSEMBLY AUGUST 24, 2009
AMENDED IN SENATE MAY 6, 2009

SENATE BILL

No. 586

Introduced by Senator Yee

February 27, 2009

An act to add Sections 3853.1 and 3853.2 to the Food and Agricultural Code, relating to agricultural districts, and making an appropriation therefor; amend Section 1202.4 of the Penal Code, relating to restitution, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 586, as amended, Yee. ~~Agricultural districts; Cow Palace; sale; Restitution fines.~~

Existing law requires the court, in every case in which a person is convicted of a crime, to impose a separate and additional restitution fine, except under a specified circumstance. Restitution fines are deposited in the Restitution Fund in the State Treasury, and are continuously appropriated to the California Victim Compensation and Government Claims Board for specified purposes. Existing law requires the restitution fine to be not less than \$200 if the person is convicted of a felony, and not less than \$100 if the person is convicted of a misdemeanor.

This bill would increase the minimum restitution fine to \$300 if the person is convicted of a felony, and to \$150 if the person is convicted of a misdemeanor. By increasing moneys deposited in a continuously appropriated fund, this bill would make an appropriation.

~~(1) Existing law provides that the state is divided into agricultural districts within the boundaries of which district agricultural associations may be formed. Existing law provides that District 1a is the County of San Mateo and the City and County of San Francisco.~~

~~This bill would create District 1b, which consists of all of that real property that is a portion of District 1a that is commonly known as the Cow Palace, and would prescribe certain matters applicable to officers of District 1a and District 1b. The bill would, among other things, (A) authorize the Department of General Services to dispose of all or any portion of the real property that composes District 1b pursuant to a public bidding process, as provided, (B) prohibit District 1b from entering into any contract, lease, or other agreement affecting the use or operation of that real property for a period that exceeds 3 months, (C) require those contracts, leases, or agreements to contain a certain cancellation notice, (D) authorize the department to be reimbursed for reasonable costs or expenses, (E) authorize bonds involving District 1b property to be paid from the proceeds of any disposition of District 1b property, (F) require the Director of General Services to report specified information to the chairs of the fiscal committees of the Legislature 30 days prior to executing a transaction for the disposition of the real property, (G) require the director to include a reservation to the state of mineral rights in the disposition of the real property, (H) require the net disposition proceeds to be deposited into the District 1b Disposition Fund, which the bill would create in the State Treasury, and (I) require the department to report annually to the Legislature on the status of the disposition of the real property.~~

~~This bill would require District 1b to be abolished and all funds in the District 1b Disposition Fund to be transferred to the General Fund upon sale of all property that composes District 1b.~~

~~This bill would also declare the Legislature's findings that the disposition of this state property does not constitute a sale of surplus state property, as set forth in specified existing law.~~

~~(2) The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA generally requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would~~

avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA also provides some exemptions from its requirements for specified projects.

This bill would exempt the disposition of the state real property or buildings subject to the bill that is made on an “as is” basis from designated provisions of CEQA. The bill would also exempt from those provisions of CEQA the execution of the purchase and sale agreement or the exchange agreement for this property or these buildings if the disposition is not made on an “as is” basis and the close of escrow is contingent on a specified requirement and compliance with CEQA.

(3) This bill would authorize the Director of Finance to provide a General Fund loan in the amount of \$500,000 to a certain item of the Budget Act, which relates to the Department of General Services, and to adjust the amounts appropriated in that item that are provided for the purposes of supporting the management of the state’s real property assets in order to accommodate any increase in workload or other costs to the Department of General Services to implement this bill. By authorizing adjustments to certain appropriated amounts in the Budget Act, the bill would make an appropriation.

Vote: ~~majority~~^{2/3}. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1202.4 of the Penal Code is amended to
- 2 read:
- 3 1202.4. (a) (1) It is the intent of the Legislature that a victim
- 4 of crime who incurs any economic loss as a result of the
- 5 commission of a crime shall receive restitution directly from any
- 6 defendant convicted of that crime.
- 7 (2) Upon a person being convicted of any crime in the State of
- 8 California, the court shall order the defendant to pay a fine in the
- 9 form of a penalty assessment in accordance with Section 1464.
- 10 (3) The court, in addition to any other penalty provided or
- 11 imposed under the law, shall order the defendant to pay both of
- 12 the following:
- 13 (A) A restitution fine in accordance with subdivision (b).

1 (B) Restitution to the victim or victims, if any, in accordance
2 with subdivision (f), which shall be enforceable as if the order
3 were a civil judgment.

4 (b) In every case where a person is convicted of a crime, the
5 court shall impose a separate and additional restitution fine, unless
6 it finds compelling and extraordinary reasons for not doing so, and
7 states those reasons on the record.

8 (1) The restitution fine shall be set at the discretion of the court
9 and commensurate with the seriousness of the offense, but shall
10 not be less than ~~two~~ *three* hundred dollars ~~(\$200)~~ *(\$300)*, and not
11 more than ten thousand dollars (\$10,000), if the person is convicted
12 of a felony, and shall not be less than one hundred *fifty* dollars
13 ~~(\$100)~~ *(\$150)*, and not more than one thousand dollars (\$1,000),
14 if the person is convicted of a misdemeanor.

15 (2) In setting a felony restitution fine, the court may determine
16 the amount of the fine as the product of ~~two~~ *three* hundred dollars
17 ~~(\$200)~~ *(\$300)* multiplied by the number of years of imprisonment
18 the defendant is ordered to serve, multiplied by the number of
19 felony counts of which the defendant is convicted.

20 (c) The court shall impose the restitution fine unless it finds
21 compelling and extraordinary reasons for not doing so, and states
22 those reasons on the record. A defendant's inability to pay shall
23 not be considered a compelling and extraordinary reason not to
24 impose a restitution fine. Inability to pay may be considered only
25 in increasing the amount of the restitution fine in excess of the ~~two~~
26 ~~hundred-dollar~~ ~~(\$200)~~ *three-hundred-dollar* *(\$300)* or ~~one~~
27 ~~hundred-dollar~~ ~~(\$100)~~ *one-hundred-fifty dollar* *(\$150)* minimum.
28 The court may specify that funds confiscated at the time of the
29 defendant's arrest, except for funds confiscated pursuant to Section
30 11469 of the Health and Safety Code, be applied to the restitution
31 fine if the funds are not exempt for spousal or child support or
32 subject to any other legal exemption.

33 (d) In setting the amount of the fine pursuant to subdivision (b)
34 in excess of the ~~two hundred-dollar~~ ~~(\$200)~~ *three-hundred-dollar*
35 *(\$300)* or ~~one hundred-dollar~~ ~~(\$100)~~ *one-hundred-fifty dollar*
36 *(\$150)* minimum, the court shall consider any relevant factors
37 including, but not limited to, the defendant's inability to pay, the
38 seriousness and gravity of the offense and the circumstances of its
39 commission, any economic gain derived by the defendant as a
40 result of the crime, the extent to which any other person suffered

1 any losses as a result of the crime, and the number of victims
2 involved in the crime. Those losses may include pecuniary losses
3 to the victim or his or her dependents as well as intangible losses,
4 such as psychological harm caused by the crime. Consideration
5 of a defendant's inability to pay may include his or her future
6 earning capacity. A defendant shall bear the burden of
7 demonstrating his or her inability to pay. Express findings by the
8 court as to the factors bearing on the amount of the fine shall not
9 be required. A separate hearing for the fine shall not be required.

10 (e) The restitution fine shall not be subject to penalty
11 assessments authorized in Section 1464 or Chapter 12
12 (commencing with Section 76000) of Title 8 of the Government
13 Code, or the state surcharge authorized in Section 1465.7, and
14 shall be deposited in the Restitution Fund in the State Treasury.

15 (f) Except as provided in subdivisions (q) and (r), in every case
16 in which a victim has suffered economic loss as a result of the
17 defendant's conduct, the court shall require that the defendant
18 make restitution to the victim or victims in an amount established
19 by court order, based on the amount of loss claimed by the victim
20 or victims or any other showing to the court. If the amount of loss
21 cannot be ascertained at the time of sentencing, the restitution
22 order shall include a provision that the amount shall be determined
23 at the direction of the court. The court shall order full restitution
24 unless it finds compelling and extraordinary reasons for not doing
25 so, and states them on the record. The court may specify that funds
26 confiscated at the time of the defendant's arrest, except for funds
27 confiscated pursuant to Section 11469 of the Health and Safety
28 Code, be applied to the restitution order if the funds are not exempt
29 for spousal or child support or subject to any other legal exemption.

30 (1) The defendant has the right to a hearing before a judge to
31 dispute the determination of the amount of restitution. The court
32 may modify the amount, on its own motion or on the motion of
33 the district attorney, the victim or victims, or the defendant. If a
34 motion is made for modification of a restitution order, the victim
35 shall be notified of that motion at least 10 days prior to the
36 proceeding held to decide the motion.

37 (2) Determination of the amount of restitution ordered pursuant
38 to this subdivision shall not be affected by the indemnification or
39 subrogation rights of any third party. Restitution ordered pursuant
40 to this subdivision shall be ordered to be deposited to the

1 Restitution Fund to the extent that the victim, as defined in
2 subdivision (k), has received assistance from the Victim
3 Compensation Program pursuant to Chapter 5 (commencing with
4 Section 13950) of Part 4 of Division 3 of Title 2 of the Government
5 Code.

6 (3) To the extent possible, the restitution order shall be prepared
7 by the sentencing court, shall identify each victim and each loss
8 to which it pertains, and shall be of a dollar amount that is sufficient
9 to fully reimburse the victim or victims for every determined
10 economic loss incurred as the result of the defendant's criminal
11 conduct, including, but not limited to, all of the following:

12 (A) Full or partial payment for the value of stolen or damaged
13 property. The value of stolen or damaged property shall be the
14 replacement cost of like property, or the actual cost of repairing
15 the property when repair is possible.

16 (B) Medical expenses.

17 (C) Mental health counseling expenses.

18 (D) Wages or profits lost due to injury incurred by the victim,
19 and if the victim is a minor, wages or profits lost by the minor's
20 parent, parents, guardian, or guardians, while caring for the injured
21 minor. Lost wages shall include any commission income as well
22 as any base wages. Commission income shall be established by
23 evidence of commission income during the 12-month period prior
24 to the date of the crime for which restitution is being ordered,
25 unless good cause for a shorter time period is shown.

26 (E) Wages or profits lost by the victim, and if the victim is a
27 minor, wages or profits lost by the minor's parent, parents,
28 guardian, or guardians, due to time spent as a witness or in assisting
29 the police or prosecution. Lost wages shall include any commission
30 income as well as any base wages. Commission income shall be
31 established by evidence of commission income during the
32 12-month period prior to the date of the crime for which restitution
33 is being ordered, unless good cause for a shorter time period is
34 shown.

35 (F) Noneconomic losses, including, but not limited to,
36 psychological harm, for felony violations of Section 288.

37 (G) Interest, at the rate of 10 percent per annum, that accrues
38 as of the date of sentencing or loss, as determined by the court.

39 (H) Actual and reasonable attorney's fees and other costs of
40 collection accrued by a private entity on behalf of the victim.

1 (I) Expenses incurred by an adult victim in relocating away
2 from the defendant, including, but not limited to, deposits for
3 utilities and telephone service, deposits for rental housing,
4 temporary lodging and food expenses, clothing, and personal items.
5 Expenses incurred pursuant to this section shall be verified by law
6 enforcement to be necessary for the personal safety of the victim
7 or by a mental health treatment provider to be necessary for the
8 emotional well-being of the victim.

9 (J) Expenses to install or increase residential security incurred
10 related to a crime, as defined in subdivision (c) of Section 667.5,
11 including, but not limited to, a home security device or system, or
12 replacing or increasing the number of locks.

13 (K) Expenses to retrofit a residence or vehicle, or both, to make
14 the residence accessible to or the vehicle operational by the victim,
15 if the victim is permanently disabled, whether the disability is
16 partial or total, as a direct result of the crime.

17 (4) (A) If, as a result of the defendant's conduct, the Restitution
18 Fund has provided assistance to or on behalf of a victim or
19 derivative victim pursuant to Chapter 5 (commencing with Section
20 13950) of Part 4 of Division 3 of Title 2 of the Government Code,
21 the amount of assistance provided shall be presumed to be a direct
22 result of the defendant's criminal conduct and shall be included
23 in the amount of the restitution ordered.

24 (B) The amount of assistance provided by the Restitution Fund
25 shall be established by copies of bills submitted to the California
26 Victim Compensation and Government Claims Board reflecting
27 the amount paid by the board and whether the services for which
28 payment was made were for medical or dental expenses, funeral
29 or burial expenses, mental health counseling, wage or support
30 losses, or rehabilitation. Certified copies of these bills provided
31 by the board and redacted to protect the privacy and safety of the
32 victim or any legal privilege, together with a statement made under
33 penalty of perjury by the custodian of records that those bills were
34 submitted to and were paid by the board, shall be sufficient to meet
35 this requirement.

36 (C) If the defendant offers evidence to rebut the presumption
37 established by this paragraph, the court may release additional
38 information contained in the records of the board to the defendant
39 only after reviewing that information in camera and finding that

1 the information is necessary for the defendant to dispute the amount
2 of the restitution order.

3 (5) Except as provided in paragraph (6), in any case in which
4 an order may be entered pursuant to this subdivision, the defendant
5 shall prepare and file a disclosure identifying all assets, income,
6 and liabilities in which the defendant held or controlled a present
7 or future interest as of the date of the defendant's arrest for the
8 crime for which restitution may be ordered. The financial disclosure
9 statements shall be made available to the victim and the board
10 pursuant to Section 1214. The disclosure shall be signed by the
11 defendant upon a form approved or adopted by the Judicial Council
12 for the purpose of facilitating the disclosure. Any defendant who
13 willfully states as true any material matter that he or she knows to
14 be false on the disclosure required by this subdivision is guilty of
15 a misdemeanor, unless this conduct is punishable as perjury or
16 another provision of law provides for a greater penalty.

17 (6) A defendant who fails to file the financial disclosure required
18 in paragraph (5), but who has filed a financial affidavit or financial
19 information pursuant to subdivision (c) of Section 987, shall be
20 deemed to have waived the confidentiality of that affidavit or
21 financial information as to a victim in whose favor the order of
22 restitution is entered pursuant to subdivision (f). The affidavit or
23 information shall serve in lieu of the financial disclosure required
24 in paragraph (5), and paragraphs (7) to (10), inclusive, shall not
25 apply.

26 (7) Except as provided in paragraph (6), the defendant shall file
27 the disclosure with the clerk of the court no later than the date set
28 for the defendant's sentencing, unless otherwise directed by the
29 court. The disclosure may be inspected or copied as provided by
30 subdivision (b), (c), or (d) of Section 1203.05.

31 (8) In its discretion, the court may relieve the defendant of the
32 duty under paragraph (7) of filing with the clerk by requiring that
33 the defendant's disclosure be submitted as an attachment to, and
34 be available to, those authorized to receive the following:

35 (A) Any report submitted pursuant to subparagraph (C) of
36 paragraph (2) of subdivision (b) of Section 1203 or subdivision
37 (g) of Section 1203.

38 (B) Any stipulation submitted pursuant to paragraph (4) of
39 subdivision (b) of Section 1203.

1 (C) Any report by the probation officer, or any information
2 submitted by the defendant applying for a conditional sentence
3 pursuant to subdivision (d) of Section 1203.

4 (9) The court may consider a defendant's unreasonable failure
5 to make a complete disclosure pursuant to paragraph (5) as any of
6 the following:

7 (A) A circumstance in aggravation of the crime in imposing a
8 term under subdivision (b) of Section 1170.

9 (B) A factor indicating that the interests of justice would not be
10 served by admitting the defendant to probation under Section 1203.

11 (C) A factor indicating that the interests of justice would not be
12 served by conditionally sentencing the defendant under Section
13 1203.

14 (D) A factor indicating that the interests of justice would not
15 be served by imposing less than the maximum fine and sentence
16 fixed by law for the case.

17 (10) A defendant's failure or refusal to make the required
18 disclosure pursuant to paragraph (5) shall not delay entry of an
19 order of restitution or pronouncement of sentence. In appropriate
20 cases, the court may do any of the following:

21 (A) Require the defendant to be examined by the district attorney
22 pursuant to subdivision (h).

23 (B) If sentencing the defendant under Section 1170, provide
24 that the victim shall receive a copy of the portion of the probation
25 report filed pursuant to Section 1203.10 concerning the defendant's
26 employment, occupation, finances, and liabilities.

27 (C) If sentencing the defendant under Section 1203, set a date
28 and place for submission of the disclosure required by paragraph
29 (5) as a condition of probation or suspended sentence.

30 (11) If a defendant has any remaining unpaid balance on a
31 restitution order or fine 120 days prior to his or her scheduled
32 release from probation or 120 days prior to his or her completion
33 of a conditional sentence, the defendant shall prepare and file a
34 new and updated financial disclosure identifying all assets, income,
35 and liabilities in which the defendant holds or controls or has held
36 or controlled a present or future interest during the defendant's
37 period of probation or conditional sentence. The financial
38 disclosure shall be made available to the victim and the board
39 pursuant to Section 1214. The disclosure shall be signed and
40 prepared by the defendant on the same form as described in

1 paragraph (5). Any defendant who willfully states as true any
2 material matter that he or she knows to be false on the disclosure
3 required by this subdivision is guilty of a misdemeanor, unless
4 this conduct is punishable as perjury or another provision of law
5 provides for a greater penalty. The financial disclosure required
6 by this paragraph shall be filed with the clerk of the court no later
7 than 90 days prior to the defendant's scheduled release from
8 probation or completion of the defendant's conditional sentence.

9 (g) The court shall order full restitution unless it finds
10 compelling and extraordinary reasons for not doing so, and states
11 those reasons on the record. A defendant's inability to pay shall
12 not be considered a compelling and extraordinary reason not to
13 impose a restitution order, nor shall inability to pay be a
14 consideration in determining the amount of a restitution order.

15 (h) The district attorney may request an order of examination
16 pursuant to the procedures specified in Article 2 (commencing
17 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part
18 2 of the Code of Civil Procedure, in order to determine the
19 defendant's financial assets for purposes of collecting on the
20 restitution order.

21 (i) A restitution order imposed pursuant to subdivision (f) shall
22 be enforceable as if the order were a civil judgment.

23 (j) The making of a restitution order pursuant to subdivision (f)
24 shall not affect the right of a victim to recovery from the Restitution
25 Fund as otherwise provided by law, except to the extent that
26 restitution is actually collected pursuant to the order. Restitution
27 collected pursuant to this subdivision shall be credited to any other
28 judgments for the same losses obtained against the defendant
29 arising out of the crime for which the defendant was convicted.

30 (k) For purposes of this section, "victim" shall include all of
31 the following:

32 (1) The immediate surviving family of the actual victim.

33 (2) Any corporation, business trust, estate, trust, partnership,
34 association, joint venture, government, governmental subdivision,
35 agency, or instrumentality, or any other legal or commercial entity
36 when that entity is a direct victim of a crime.

37 (3) Any person who has sustained economic loss as the result
38 of a crime and who satisfies any of the following conditions:

39 (A) At the time of the crime was the parent, grandparent, sibling,
40 spouse, child, or grandchild of the victim.

1 (B) At the time of the crime was living in the household of the
2 victim.

3 (C) At the time of the crime was a person who had previously
4 lived in the household of the victim for a period of not less than
5 two years in a relationship substantially similar to a relationship
6 listed in subparagraph (A).

7 (D) Is another family member of the victim, including, but not
8 limited to, the victim's fiancé or fiancée, and who witnessed the
9 crime.

10 (E) Is the primary caretaker of a minor victim.

11 (4) Any person who is eligible to receive assistance from the
12 Restitution Fund pursuant to Chapter 5 (commencing with Section
13 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

14 (5) Any governmental entity that is responsible for repairing,
15 replacing, or restoring public or privately owned property that has
16 been defaced with graffiti or other inscribed material, as defined
17 in subdivision (e) of Section 594, and that has sustained an
18 economic loss as the result of a violation of Sections 594, 594.3,
19 594.4, 640.5, 640.6, or 640.7 of the Penal Code.

20 (l) At its discretion, the board of supervisors of any county may
21 impose a fee to cover the actual administrative cost of collecting
22 the restitution fine, not to exceed 10 percent of the amount ordered
23 to be paid, to be added to the restitution fine and included in the
24 order of the court, the proceeds of which shall be deposited in the
25 general fund of the county.

26 (m) In every case in which the defendant is granted probation,
27 the court shall make the payment of restitution fines and orders
28 imposed pursuant to this section a condition of probation. Any
29 portion of a restitution order that remains unsatisfied after a
30 defendant is no longer on probation shall continue to be enforceable
31 by a victim pursuant to Section 1214 until the obligation is
32 satisfied.

33 (n) If the court finds and states on the record compelling and
34 extraordinary reasons why a restitution fine or full restitution order
35 should not be required, the court shall order, as a condition of
36 probation, that the defendant perform specified community service,
37 unless it finds and states on the record compelling and
38 extraordinary reasons not to require community service in addition
39 to the finding that restitution should not be required. Upon

1 revocation of probation, the court shall impose restitution pursuant
2 to this section.

3 (o) The provisions of Section 13963 of the Government Code
4 shall apply to restitution imposed pursuant to this section.

5 (p) The court clerk shall notify the California Victim
6 Compensation and Government Claims Board within 90 days of
7 an order of restitution being imposed if the defendant is ordered
8 to pay restitution to the board due to the victim receiving
9 compensation from the Restitution Fund. Notification shall be
10 accomplished by mailing a copy of the court order to the board,
11 which may be done periodically by bulk mail or electronic mail.

12 (q) Upon conviction for a violation of Section 236.1, the court
13 shall, in addition to any other penalty or restitution, order the
14 defendant to pay restitution to the victim in any case in which a
15 victim has suffered economic loss as a result of the defendant's
16 conduct. The court shall require that the defendant make restitution
17 to the victim or victims in an amount established by court order,
18 based on the amount of loss claimed by the victim or victims or
19 any other showing to the court. In determining restitution pursuant
20 to this section, the court shall base its order upon the greater of the
21 following: the gross value of the victim's labor or services based
22 upon the comparable value of similar services in the labor market
23 in which the offense occurred, or the value of the victim's labor
24 as guaranteed under California law, or the actual income derived
25 by the defendant from the victim's labor or services or any other
26 appropriate means to provide reparations to the victim.

27 (r) In addition to any other penalty or fine, the court shall order
28 any person who has been convicted of any violation of Section
29 653h, 653s, 653u, or 653w to make restitution to any owner or
30 lawful producer, or trade association acting on behalf of the owner
31 or lawful producer, of a phonograph record, disc, wire, tape, film,
32 or other device or article from which sounds or visual images are
33 derived that suffered economic loss resulting from the violation.
34 For the purpose of calculating restitution, the value of each
35 nonconforming article or device shall be based on the aggregate
36 wholesale value of lawfully manufactured and authorized devices
37 or articles from which sounds or visual images are devised, unless
38 a higher value can be proved in the case of (1) an unreleased audio
39 work, or (2) an audiovisual work that, at the time of unauthorized
40 distribution, has not been made available in copies for sale to the

1 general public in the United States on a digital versatile disc. The
2 order of restitution shall also include reasonable costs incurred as
3 a result of any investigation of the violation undertaken by the
4 owner, lawful producer, or trade association acting on behalf of
5 the owner or lawful producer. “Aggregate wholesale value” means
6 the average wholesale value of lawfully manufactured and
7 authorized sound or audiovisual recordings. Proof of the specific
8 wholesale value of each nonconforming device or article is not
9 required.

10 ~~SECTION 1. Section 3853.1 is added to the Food and~~
11 ~~Agricultural Code, to read:~~

12 ~~3853.1. There is hereby created District 1b which consists of~~
13 ~~all of that real property that is a portion of District 1a that is~~
14 ~~commonly known as the Cow Palace located in Daly City and the~~
15 ~~City and County of San Francisco. Notwithstanding any other law,~~
16 ~~any officer of District 1b may also be an officer of District 1a and~~
17 ~~shall be a resident of District 1a. All otherwise applicable ethical~~
18 ~~duties, including those in Section 1090 of the Government Code,~~
19 ~~subdivision (a) of Section 8920 of the Government Code, and the~~
20 ~~Political Reform Act of 1974 (Title 9 (commencing with Section~~
21 ~~81000) of the Government Code), shall apply to the officers of~~
22 ~~both District 1a and District 1b, and shall apply in regard to the~~
23 ~~transactions contemplated by Section 3853.2.~~

24 ~~SEC. 2. Section 3853.2 is added to the Food and Agricultural~~
25 ~~Code, to read:~~

26 ~~3853.2. (a) The District 1b Disposition Fund is hereby created~~
27 ~~in the State Treasury.~~

28 ~~(b) (1) The Department of General Services may dispose all or~~
29 ~~any portion of the real property that composes District 1b. District~~
30 ~~1b shall not enter into any contract, lease, or other agreement~~
31 ~~affecting the use or operation of the real property for a period that~~
32 ~~exceeds three months, and all of these contracts, leases, or other~~
33 ~~agreements shall contain a provision that they can be canceled~~
34 ~~upon a 30-day notice from the Department of General Services.~~
35 ~~The Department of General Services shall be reimbursed for any~~
36 ~~reasonable cost or expense incurred for the transactions described~~
37 ~~in this section.~~

38 ~~(2) Additionally to the requirements of paragraph (1), to the~~
39 ~~extent bonds issued by the State Public Works Board or other entity~~
40 ~~involve the property to be disposed of pursuant to this section, all~~

1 issuer and trustee related costs associated with the review of any
2 proposed disposition, together with the costs related to the
3 defeasance or retirement of any bonds, which may include the cost
4 of nationally recognized bond counsel, shall be paid from the
5 proceeds of any disposition authorized by this section. The net
6 proceeds from the disposition shall be deposited into the District
7 1b Disposition Fund.

8 (e) The disposition of the real property authorized by this section
9 shall be pursuant to a public bidding process designed to obtain
10 the highest, most certain return for the state from a responsible
11 bidder, and any transaction based on such a bidding process shall
12 be deemed to be the fair market value for the property. A notice
13 of this bidding process shall be posted by the Department of
14 General Services on its Internet Web site for at least 30 days prior
15 to the disposition of the real property. The provisions of Section
16 11011.1 of the Government Code are not applicable to the
17 disposition of real property authorized under this section.

18 (d) Thirty days prior to executing a transaction for the
19 disposition of real property authorized by this section, the Director
20 of General Services shall report to the chairs of the fiscal
21 committees of the Legislature all of the following:

- 22 (1) The financial terms of the transaction;
23 (2) A comparison of fair market value for the real property and
24 the terms listed in paragraph (1).
25 (3) Any basis for agreeing to terms and conditions other than
26 fair market value.

27 (e) As to the real property disposed of pursuant to this section,
28 the Director of General Services shall except and reserve to the
29 state all mineral deposits, as defined in Section 6407 of the Public
30 Resources Code, together with the right to prospect for, mine, and
31 remove the deposits. If, however, the Director of General Services
32 determines that there is little or no potential for mineral deposits,
33 the reservation may be without surface right of entry above a depth
34 of 500 feet, or the rights to prospect for, mine, and remove the
35 deposits shall be limited to those areas of the real property
36 conveyed that the director determines to be reasonably necessary
37 for the removal of the deposits.

38 (f) The Department of General Services shall report to the
39 Legislature on or before June 30 of each year on the status of the
40 disposition of real property authorized by this section.

1 ~~(g) Upon the disposition of all property that composes District~~
2 ~~1b, District 1b shall be abolished and all funds in the District 1b~~
3 ~~Disposition Fund shall be transferred to the General Fund.~~

4 ~~(h) (1) The disposition of state real property or buildings~~
5 ~~specified in subdivision (b) that are made on an “as is” basis shall~~
6 ~~be exempt from Chapter 3 (commencing with Section 21100) to~~
7 ~~Chapter 6 (commencing with Section 21165), inclusive, of Division~~
8 ~~13 of the Public Resources Code. Upon title to the parcel vesting~~
9 ~~in the purchaser or transferee of the property, the purchaser or~~
10 ~~transferee shall be subject to any local governmental land use~~
11 ~~entitlement approval requirements and to Chapter 3 (commencing~~
12 ~~with Section 21100) to Chapter 6 (commencing with Section~~
13 ~~21165), inclusive, of Division 13 of the Public Resources Code.~~

14 ~~(2) If the disposition of state real property or buildings specified~~
15 ~~in subdivision (b), is not made on an “as is” basis and close of~~
16 ~~escrow is contingent on the satisfaction of a local governmental~~
17 ~~land use entitlement approval requirement or compliance by the~~
18 ~~local government with Chapter 3 (commencing with Section 21100)~~
19 ~~to Chapter 6 (commencing with Section 21165), inclusive, of~~
20 ~~Division 13 of the Public Resources Code, the execution of the~~
21 ~~purchase and sale agreement or of the exchange agreement by all~~
22 ~~parties to the agreement shall be exempt from Chapter 3~~
23 ~~(commencing with Section 21100) to Chapter 6 (commencing with~~
24 ~~Section 21165), inclusive, of Division 13 of the Public Resources~~
25 ~~Code.~~

26 ~~(3) For the purposes of this section, “disposition” means the~~
27 ~~sale, lease, exchange, or repurchase of state property or buildings~~
28 ~~specified in subdivision (b).~~

29 ~~(i) The disposition of real property or buildings, or both,~~
30 ~~pursuant to this section does not constitute a sale or other~~
31 ~~disposition of state surplus property within the meaning of Section~~
32 ~~9 of Article III of the California Constitution and shall not be~~
33 ~~subject to subdivision (g) of Section 11011 of the Government~~
34 ~~Code.~~

35 ~~SEC. 3. The Legislature finds and declares that Article 4~~
36 ~~(commencing with Section 1090) of Chapter 1 of Division 4 of~~
37 ~~Title 1 of the Government Code applies to every transaction~~
38 ~~undertaken pursuant to the authority of this act.~~

39 ~~SEC. 4. The Director of Finance may provide a General Fund~~
40 ~~loan in the amount of five hundred thousand dollars (\$500,000)~~

1 to augment Item 1760-001-0002 of Section 2.00 of the Budget Act
2 of 2009 and may adjust the amounts appropriated in Item
3 1760-001-0002 of Section 2.00 of the Budget Act of 2009 that are
4 provided for the purposes of supporting the management of the
5 state's real property assets in order to accommodate any increase
6 in workload or other costs to the Department of General Services
7 to implement this act.

O